

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

TIMOTHY J. McDONALD,	)	
	)	Cause No. 4:14-cv-1468
Plaintiff,	)	
	)	Circuit Court of St. Charles County,
vs.	)	Missouri, Cause No. 1411-CC00708
	)	
GEICO GENERAL INSURANCE	)	
COMPANY,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	

**NOTICE OF REMOVAL**

COMES NOW Defendant, GEICO General Insurance Company (“GEICO”), by and through undersigned counsel, and hereby files this Notice of Removal, of the above captioned action to the United States District Court for the Eastern District of Missouri, Eastern Division, pursuant to 28 U.S.C. §§1441(a) and 1446, and in support respectfully states as follows:

1. Plaintiff Timothy J. McDonald filed an original Petition in the Circuit Court of St. Charles County, State of Missouri, alleging breach of contract and vexatious refusal to pay against Defendant GEICO. A copy of the complete file and cause number 1411-CC00708 is attached hereto as Exhibit A.

2. Plaintiff alleges he is a resident of St. Charles County, Missouri.

3. Defendant GEICO has at all times been a foreign corporation organized under the laws of the State of Maryland, with its principal place of business in the State of Maryland and, therefore, for purposes of removal based on diversity of citizenship, Defendant is not a citizen of the State of Missouri.

4. In regard to the amount in controversy, the Eight Circuit has held that the “requirement is satisfied when a fact finder could legally conclude, from the pleadings and the

proof adduced to the court before trial, that the damages of the plaintiff suffered are greater than \$75,000.” *Capital Indemnity Corp. v. 1405 Assoc., Inc.*, 340 F.3d 547, 549 (8<sup>th</sup> Cir. 2003).

5. The amount in controversy in this action, exclusive of interests and costs, exceeds the sum of Seventy Five Thousand Dollars (\$75,000.00) in that Plaintiff has made a demand in excess of that amount.

6. Defendant’s Notice of Removal has been timely filed pursuant to 28 U.S.C. §1446, as Defendant was served on July 28, 2014.

7. Because complete diversity of citizenship exists between Plaintiff and Defendant, and because the amount in controversy is in excess of Seventy Five Thousand Dollars (\$75,000.00), removal to this court is proper pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1446.

8. Defendant, simultaneously with the filing of this Notice of Removal, has given written notice of its filing of this Notice of Removal to Plaintiff and will file a copy of the Notice of Removal with the Clerk of the Circuit Court of St. Charles County, Missouri.

WHEREFORE, Defendant, GEICO General Insurance Company, respectfully requests that the above referenced state court action be removed from the Circuit Court of Oregon County to this court, and that this Honorable Court accept jurisdiction of the case, and for any and other further relief this court deems just and proper.

BROWN & JAMES, P.C.

/s/ Jackie M. Kinder

Russell F. Watters, #25758MO

Jackie M. Kinder, #52810MO

800 Market Street, Suite 1100

St. Louis, Missouri 63101-2000

314-421-3400

314-421-3128 – FAX

[rwatters@bjpc.com](mailto:rwatters@bjpc.com)

[jkinder@bjpc.com](mailto:jkinder@bjpc.com)

*Attorneys for Defendant*

*GEICO General Insurance Company*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 25<sup>th</sup> day of August, 2014, a copy of the foregoing was sent via the court's electronic filing system and via U.S. mail, postage prepaid, to:

Andrew H. Koor  
SUDARTH & KOOR, LLC  
755 West Terra Lane  
O'Fallon, MO 63366  
*Attorneys for Plaintiff*

/s/ Jackie M. Kinder

11880262